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September 12, 2006

Notice of Ex Parte Presentation

By Electronic Filing

Marlene H. Dortch, Secretary
Federal Communications Commission
The Portals
445 12th Street, S.W., Room TW-325
Washington, DC 20554

**Re: CC Docket No. 96-128, Illinois Public Telecommunications Association,
Petition for Declaratory Ruling**

Dear Ms. Dortch:

On behalf of the American Public Communications Council ("APCC"), we sent today to the persons listed under "cc" below the enclosed legal analysis of the Commission's April 15, 1997, order in this proceeding.

Sincerely,



Robert F. Aldrich

Enclosure

cc: Daniel Gonzalez
Michelle Carey
Scott Deutchman
Scott Bergmann
Christopher Killion
Diane Griffin
Thomas Navin
Donald Stockdale
Tamara Preiss
Paula Silberthau
Albert Lewis
Pamela Arluk
Lynne Engledow

**THE *WAIVER ORDER* REQUIRES REFUNDS
FROM THE DATE NST-COMPLIANT RATES
BECAME EFFECTIVE BACK TO APRIL 15, 1997**

American Public Communications Council

September 12, 2006

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**THE WAIVER ORDER REQUIRED REFUNDS FOR ALL PAYPHONE LINE
RATES FROM THE DATE NST-COMPLIANT RATES BECAME EFFECTIVE
BACK TO APRIL 15, 1997**

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I. SUMMARY

The Common Carrier Bureau's 1997 *Waiver Order*¹ had several purposes: (1) to bring the Bell Companies into compliance with the requirements of the *Payphone Orders*,² including the new services test ("NST") (*Waiver Order* at 21379 ¶ 19), and with Section 276 of the Communications Act (47 U.S.C. § 276); (2) to ensure that Bell Companies who had not yet complied with the NST could nonetheless begin collecting dial-around compensation as of April 15, 1997 (*id.* at 21378 ¶ 18); and (3) to mitigate any harm to payphone service providers ("PSPs") caused by the Bell Companies' failure to meet the April 15 deadline for NST compliance (*id.* at 21379 ¶ 20).

Interpreting the order in light of those purposes – and in accordance with the order's text and context – it is clear that the *Waiver Order* required the Bell Companies to submit their payphone line rates with cost support for state commission review of NST compliance, whether or not the Bell Companies believed their rates already complied. In fact, as shown by their actions immediately following the order, when they did submit cost support for then-existing payphone line rates, almost all the Bell Companies involved in this proceeding initially agreed

¹ *Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996*, Order, 12 FCC Rcd 21370 ¶ 1 (CCB 1997) ("Waiver Order").

² *Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996*, CC Dkt. No. 96-128, Report and Order, 11 FCC Rcd 20541 (1996) ("First Payphone Order"), *recon.* 11 FCC Rcd 21233 (1996) ("First Payphone Reconsideration Order"), *aff'd in relevant part*, *Ill. Pub. Telecomms. Ass'n v. FCC*, 117 F.3d 555 (D.C. Cir. 1997), *cert denied*, *Virginia State Corp. Comm'n v. FCC*, 523 U.S. 1046 (1998) (collectively "Payphone Orders").

that the *Waiver Order* required such filings. It is equally clear that the *Waiver Order*'s refund requirement applies to all the payphone line rates subject to NST review, and that the amount to be refunded is the difference between the then-existing (as of April 15, 1997) payphone line rate and the rate that actually complies with the NST.³

According to the Bell Companies, by contrast, the *Waiver Order* required them to file NST cost support *only* for those rates that they proposed to *revise* and required refunds only for the difference between then-existing rates and the proposed rate revisions – whether or not the proposed rate revisions actually complied with the NST. The Bell Companies' current interpretation of the *Waiver Order* is utterly inconsistent with its language, context and purposes. Moreover, by permitting the Bell Companies to continue indefinitely their noncompliance with the NST and discrimination against PSPs, the Bell Companies' version of the *Waiver Order* would violate both the *Payphone Orders* and Section 276.

In the order, the Common Carrier Bureau explicitly and repeatedly stated that it was granting a *limited* waiver “for 45 days . . . [of] the requirement that [local exchange carrier (“LEC”)] intrastate tariffs for payphone services comply with the ‘new services test’ of the federal guidelines,” *Waiver Order*, 12 FCC Rcd at 21379 ¶ 19. This limited waiver was subject to a refund condition to “help to mitigate any delay in having in effect intrastate tariffs that comply with the guidelines required by the [*First Payphone Reconsideration Order*].” *Id.* ¶ 20. If the Bell Companies' current interpretation were correct, then the Bell Companies would have had an *unlimited* waiver that allowed them to remain out of compliance, not for the 45 days explicitly stated in the *Waiver Order*, but *indefinitely*, and to collect payphone compensation for the entire period of noncompliance – without ever making PSPs whole. Such an unlimited

³ As a corollary, the refund period ended when NST-compliant rates actually became effective. There is no basis for the Bell Companies' contention that the refund period ended on May 19, 1997.

waiver could not have been what the Bureau intended and would have exceeded the Bureau's authority.⁴

II. BACKGROUND

To prevent the Bell Companies from discriminating in favor of their own payphone services by charging their competitors inflated payphone line rates, the Commission's *Payphone Orders* required the Bell Companies to bring their payphone line rates into compliance with the NST.⁵ To ensure timely compliance with Section 276, which prohibited discrimination "[a]fter the effective date of the rules prescribed pursuant to subsection (b)" (47 U.S.C. § 276(a)), the Commission made NST compliance a precondition for the Bell Companies becoming eligible to collect dial-around compensation for their own payphones beginning April 15, 1997.⁶ "[R]ely[ing] on the states to ensure that the basic payphone line is tariffed in accordance with the requirements of Section 276," the Commission required the Bell Companies to file their payphone line tariffs for state commission review by January 15, 1997, so that by April 15 – 158 days after the issuance of the *First Payphone Reconsideration Order* – the Bell Companies'

⁴ Once this central contention of the Bell Companies is stated, it is apparent that their other legal arguments in opposition to refunds are makeweights. Nonetheless, in the near future, APCC will submit a memorandum addressing each of the Bell Companies' other legal arguments.

⁵ *First Payphone Order*, 11 FCC Rcd at 20614 ¶ 146; *First Payphone Reconsideration Order*, 11 FCC Rcd at 21308 ¶ 163. See also 47 U.S.C. 276(a)(2) (prohibiting Bell Companies from discriminating in favor of their own payphone services), (b) (directing the FCC to adopt regulations to carry out subsection (a) and to promote payphone competition); *Wisconsin Public Service Commission*, Order, 15 FCC Rcd 9978 (Com. Car. Bur. 2000) ("*NST Order*"), Memorandum Opinion and Order, 17 FCC Rcd 2051, 2052 ¶ 2 (2002) ("*NST Review Order*"), *aff'd New England Pub. Comms. Council, Inc. v. FCC*, 334 F.3d 69 (D.C. Cir. 2003) ("In compliance with this statutory mandate, we affirm the Bureau's conclusion that section 276 requires BOCs to set their intrastate payphone line rates in compliance with the Commission's cost-based, forward-looking 'new services' test").

⁶ *First Payphone Reconsideration Order* at 21293 ¶ 131; *Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996*, Order, 12 FCC Rcd 20997, 21013 ¶ 35 (CCB 1997) ("*Clarification Order*"); *Waiver Order* at 21370 ¶ 1.

payphone line rates would be in compliance with the NST. *First Payphone Reconsideration Order* at 21308 ¶ 163.

Five days before the deadline, however, the Bell Companies claimed that they hadn't realized, until the Common Carrier Bureau issued the *Clarification Order* on April 4, 1997, that the NST requirement applied to their state-tariffed payphone line rates, as well as to federally-tariffed payphone features and functions.⁷ The industry and the Commission were thus confronted with a situation in which the Bell Companies had no time left to comply with the NST. The Common Carrier Bureau accepted the Bell Companies' claims that they had made a good-faith mistake;⁸ however, the Bureau wanted to ensure that correction of that mistake, which could involve protracted state NST proceedings, would not "unduly delay, and possibly undermine" the transition to the new compensation regime. *Id.* at 21380 ¶ 21. Therefore, the Bureau waived "for 45 days . . . the requirement that [local exchange carrier ("LEC")] intrastate tariffs for payphone services comply with the 'new services test' of the federal guidelines." *Id.* at 21379 ¶ 19. Under this limited waiver, the Bureau allowed the Bell Companies to begin collecting dial-around compensation immediately, as of April 15, 1997, provided that they applied the NST to their state-tariffed payphone line rates and submitted the rates for state commission review no later than May 19, 1997, and provided that they "reimbursed their customers . . . from April 15, 1997, if newly tariffed rates, when effective, are lower than the existing rates." *Id.* ¶ 20.

Perhaps relying in part on the Bell Companies' continuing to act in good faith (*id.* at 21378 ¶ 18), the Bureau expected that state commissions would be able to complete their review

⁷ Letter to Mary Beth Richards from Michael K. Kellogg, filed in CC Docket No. 96-128 (April 10, 1997) ("April 10 Kellogg Letter").

⁸ See *Waiver Order* at 21378 ¶ 18 ("we conclude that while the individual BOCs may not be in full compliance with the intrastate tariffing requirements of the Payphone Reclassification Proceeding, they have made a good faith effort to comply with the requirements").

of the Bell Companies' rates "within a reasonable time."⁹ As the Ninth Circuit noted in its recent order referring certain NST refund claims to the Commission, the Bureau's expectations of expeditious completion of state review were not fulfilled.¹⁰ Asserting that the NST allowed them "virtually unlimited flexibility"¹¹ in setting the overhead cost component of rates, the Bell Companies made few changes in their rates, generally submitting for state commission review *then-existing* payphone line rates that were far in excess of cost-based, NST-compliant levels.¹² Subsequently, in direct conflict with their promise to "take whatever action is necessary to comply with the Commission's orders" (*Waiver Order* at 21378 ¶ 18), the Bell Companies even challenged the Commission's authority to require NST compliance.¹³ Largely because of the Bell Companies' strategy of resistance and delay, the effective implementation of state commission review remained in limbo, in many cases for well over five years.¹⁴

⁹ *Id.* at 21379 n. 60. The *First Payphone Reconsideration Order* had required the Bell Companies to submit their tariffs for state commission review by January 15, 1997, and to be in full compliance with the NST and other requirements by April 15, 1997. Presumably, the Bureau had in mind a similar time period for completion of state review of the May 19, 1997 filings.

¹⁰ *Davel Communications, Inc. v. Qwest Corp.*, 2006 U.S. App. LEXIS 21098 (9th Cir., June 26, 2006, amended August 17, 2006) ("*Davel*").

¹¹ *NST Review Order*, 17 FCC Rcd at 2068 ¶ 55. In that proceeding, the Bell Companies argued to the Commission that "any overhead loading [they] might choose is 'reasonable' for purposes of the new services test as long as it is justified by 'some plausible benchmark.'" *Id.*

¹² *See, e.g.*, Attachments 1, 2, and 3. Alone among the Bell Companies involved in this proceeding, Qwest did *not* file any of its existing rates by May 19, 1997, for state approval of NST compliance.

¹³ *NST Review Order* at 2060 ¶ 31 & n. 74 (noting inconsistency between the Bell Companies' April 2000 challenge to the Commission's authority and their April 1997 waiver request).

¹⁴ Another factor in the delay was state commissions' uncertainty over how to apply the NST. Although the Common Carrier Bureau eventually addressed this problem in the *NST Order*, due to the Bell Companies' repeated challenges to that ruling it did not become final until 2003.

As a result, the Commission must apply the *Waiver Order* to circumstances that were not contemplated when the order was issued. The long compliance delays have raised the stakes for both the PSPs and the Bell Companies, making it even more important to interpret and apply the *Waiver Order* so as to effectuate the underlying policies. See *Davel* at *31-32. Both the plain meaning of the *Waiver Order* and its explicitly stated purposes compel a ruling that the Bell Companies were required to file for state commission review, with cost support, any payphone line rates that had not yet been reviewed for NST compliance, that the order's refund requirement applied to all such rates, from April 15, 1997, until NST-compliant rates became effective, and that the order required the Bell Companies to refund the difference between existing rates and rates that actually comply with the NST.

III. THE WAIVER ORDER CONDITIONS APPLIED TO ALL PAYPHONE LINE RATES AND REQUIRED REFUNDS OF THE DIFFERENCE BETWEEN EXISTING RATES AND NST-COMPLIANT RATES

The key questions regarding the *Waiver Order* are as follows. First, did the *Waiver Order* tariff-filing and refund requirements apply *only* to the then-existing (as of April 15, 1997) rates that the Bell Companies believed required revision in order to comply with the NST, or did they apply to *all* payphone line rates that had yet to be reviewed under the NST standard? Second, are the Bell Companies only required to refund the difference between then-existing rates and *the rates actually filed* by the Bell Companies as of May 19, 1997 – *whether or not those rates actually complied with the NST* – or are the Bell Companies required to refund the difference between existing rates and *NST-compliant rates*?¹⁵

¹⁵ A closely related issue is whether refunds were due only for the period from April 15, 1997, until May 19, 1997, or whether the refund period continued until NST-compliant rates actually took effect. Clearly, if the refund applied to charges in excess of NST-compliant rates, then the refund period must extend until NST-compliant rates became effective.

As the analysis below shows, (1) the waiver and its conditions, including both the rate-filing and refund requirements, applied to *all payphone line rates that* (as of April 15, 1997) *had not yet been reviewed for NST compliance*, and not just to rates that the Bell Companies determined did not comply; and (2) the Bell Companies were required to refund all charges collected in excess of *rates that actually were NST-compliant*, from April 15, 1997, until NST-compliant rates became effective.

A. The Waiver Order's Filing Requirement and Refund Requirement Applied to All the Bell Companies' Payphone Line Rates

In the *Waiver Order*, the *refunds* required by paragraph 20 are tied to tariff *filings* required by paragraph 19. Paragraph 19 directs the Bell Companies to “file intrastate tariffs that are consistent with the ‘new services’ test,” and paragraph 20 directs them to grant refunds if “newly tariffed rates, when effective” are lower than the existing rates. *Waiver Order*, 12 FCC Rcd at 21379-80 ¶¶ 19-20. Whatever rates had to be *filed* pursuant to paragraph 19 are clearly subject to the *refund* requirement of paragraph 20. In interpreting the order, therefore, the Commission must begin by identifying the rates subject to the paragraph 19 tariff filing requirement.

As explained below, paragraph 19 required the Bell Companies to submit for state commission review *all* their intrastate payphone line rates that had yet to be reviewed under the NST standard – whether or not the Bell Companies themselves believed that a particular rate was in need of revision to comply with the NST. Therefore, the refund requirement of paragraph 20 also applied to *all* the Bell Companies' payphone line rates that did not actually comply with the NST at their existing levels.

The language of the *Waiver Order* itself clearly directed the Bell Companies to submit their intrastate payphone line tariffs, without limitation, for review by state commissions in

accordance with federal guidelines. As a condition of granting the waiver, the order directed the Bell Companies to “file intrastate tariffs for payphone services, as required by the Payphone Reclassification Proceeding consistent with all the requirements set forth in the [*First Payphone Reconsideration Order*], within 45 days of the April 4, 1997, release date of the [Clarification Order].” *Id.* at 21379 ¶ 19. In setting forth this condition, the Bureau did not differentiate between rates that, in the Bell Companies’ view, did and did not already comply with the NST at their current levels. It did not direct the Bell Companies to “file intrastate tariffs for payphone services that the Bell Company believes must be revised to comply with the NST.” It simply directed the Bell Companies to “file intrastate tariffs for payphone services”

The Bureau *had to* require the Bell Companies to file their payphone line tariffs, even if they believed the tariffs already complied, because the Bureau had to ensure that state commissions had an opportunity to review the tariffs for NST compliance, as the *Payphone Orders* required. When it initially determined that intrastate rates were subject to the NST, in the *First Payphone Reconsideration Order*, the Commission made clear that the Bell Companies were required to file their payphone line rates and cost support with state commissions so that the rates could be reviewed for NST compliance. Over and over again, the Commission stressed that it was relying on state commissions to *actively review* payphone line rates. For example, the Commission stated that:

States must apply these requirements and the *Computer III* guidelines for tariffing such intrastate services *States unable to review* these tariffs may require the LECs operating in their state to file these tariffs with the Commission We will rely on the *states to ensure* that the basic payphone line is tariffed in accordance with the requirements of Section 276.

First Payphone Reconsideration Order at 21308 ¶ 163 (emphasis added).

As this excerpt plainly shows, the Commission delegated the initial review of the Bell Companies' rates to the states – not to the Bell Companies themselves.¹⁶ Had the Commission intended to let the Bell Companies make unilateral determinations that their rates complied with the NST, without ever presenting those rates for NST review, it would have substituted the term “LEC” for “state” in paragraph 163. Instead, the Commission required Bell Companies to submit all their payphone line rates for review, with cost support in a format permitting NST analysis, so that there could be a determination whether the rates complied with the NST.

That the Commission wanted regulators, not LECs, to determine whether LECs' payphone line rates complied with the NST is further confirmed by the Commission's comment that:

Where LECs have already filed intrastate tariffs for these services, *states* may, after considering the requirements of this order, the [*First Payphone Order*], and Section 276, conclude: 1) that existing tariffs are consistent with the requirements of the [*First Payphone Order*] as revised herein; and 2) that in such case no further filings are required.

First Payphone Reconsideration Order at 21308 ¶ 163. (emphasis added). Clearly, *only* a regulatory agency could make a determination, *after* conducting an NST review of the Bell Companies' existing payphone line rates, that those rates comply with the NST and that “no further filings are required.”

The *Waiver Order* itself reaffirmed the *Payphone Orders'* requirement for active regulatory review of NST compliance. In the *Waiver Order*, the Common Carrier Bureau was responding to the Bell Companies' admission that they had not realized that their state-tariffed rates were subject to the NST. Given that the Bell Companies had not known that the NST applied, it was clear that the Bell Companies had not yet submitted their state-tariffed rates and

¹⁶ The Commission itself also retained jurisdiction to ensure that the Bell Companies complied with all the *Payphone Orders* requirements, including the application of the NST to state-tariffed payphone line rates. *Id.* at 21294 ¶ 132; *Waiver Order* at 21379 n. 60.

underlying cost support in a form that would permit state commission review of their compliance with the NST.¹⁷

As the Bureau explicitly and repeatedly reaffirmed in the *Waiver Order*, state commission review of the Bell Companies' payphone line tariffs and cost support under the NST standard was an indispensable step in "bringing LECs into compliance" with the *Payphone Orders*. For example, the Bureau specifically noted that:

The RBOC Coalition concedes that the Commission's payphone orders, as clarified by the [*Clarification Order*], mandate that the payphone services a LEC tariffs at the state level are subject to the new services test and *that the requisite cost-support data must be submitted* to the individual states."¹⁸

In a later paragraph, the Bureau stated:

Because the LECs are required to file, *and the states are required to review*, intrastate tariffs for payphone services consistent with federal guidelines, which, in some cases, may not have been previously filed in this manner at the intrastate level, we find that special circumstances exist in this case to grant a limited waiver of brief duration to address this responsibility.

Id. at 21381 ¶ 23 (emphasis added). The Bureau also noted that the grant of a limited waiver was consistent with Commission policies because, among other things:

[T]he states' review of the intrastate tariffs that are the subject of this limited waiver will enable them to determine whether these tariffs have

¹⁷ The NST requires that LECs identify their direct forward-looking costs and allocate a "reasonable" amount of overhead (as defined by FCC precedent) to their direct costs. *See NST Review Order*, 17 FCC Rcd at 2058 ¶ 23. LECs using unseparated costs are required to adjust for the recovery of some of those costs by means of the interstate end user common line charge. *Id.* at 2069-70 ¶ 59-61. As the Bell Companies have stated they did not know that NST review was required, it would be only by accident that any state payphone line tariff would have been submitted with the appropriate cost support that would have allowed state commission to review the rates under the NST. The record here does not reflect that this actually happened in any state prior to the *Waiver Order*.

¹⁸ *Waiver Order* at 21378 ¶ 18 (emphasis added, footnote omitted). In its post-*Waiver Order* filing in Massachusetts, NYNEX explicitly cited paragraph 18 of the *Waiver Order* as requiring Bell Companies to file cost support for existing rates. *See* Attachment 1.

been filed in accordance with the Commission's rules, including the "new services test."

Id. (emphasis added). If a Bell Company had not previously submitted cost support for a payphone line rate in a format permitting NST analysis, then "in the interests of bringing LECs into compliance with the requirements of the Payphone Reclassification Proceeding" (*id.* at 21379 ¶ 19), it was clearly necessary for the Bell Company to submit such cost support by May 19, 1997, to permit state commission review, regardless of whether the Bell Company itself thought that the existing rates already complied. Otherwise, the Bell Companies would be rewarded for their non-compliance by being permitted to evade the state commission review required by the *First Payphone Reconsideration Order*.

Under the alternative construction now advocated by the Bell Companies, however, the *Waiver Order* left it totally up to them to decide whether any rate revisions were necessary and imposed a refund obligation only to the extent that they themselves proposed to revise existing payphone line rates on or before May 19, 1997.¹⁹ This interpretation conflicts with the language, context, and purposes of the *Waiver Order*.²⁰ As shown above, the *Waiver Order* did not retreat

¹⁹ Reply Comments of BellSouth Telecommunications, Inc., SBC Communications Inc., and the Verizon Telephone Companies on Illinois Public Telecommunications Association's Petition for a Declaratory Ruling at 8 (September 7, 2004) ("the [RBOC] Coalition's [refund] commitment was expressly limited to the sole circumstance where a member filed new or revised tariffs and did not apply at all in situations where a member certified that existing tariffs were compliant").

The Bell Companies further contend that even in such cases, the refund obligation applied only to the particular rates that a Bell Company proposed to revise, and not to any other rate subsequently found to be non-compliant. *Id.* at 8-9. But where the Bell Companies made rate revision filings during the April 15-May 19, 1997 time period, they generally made only minor revisions to marginal aspects of the tariff, and these revisions usually applied only to relatively low-priced features and functions. Thus, the Bell Companies' current interpretation would effectively preclude any significant retroactive relief for PSPs. Few of the Bell Companies proposed any revisions to the major items in the rates paid by PSPs – the monthly recurring dial tone rate and usage charges. In the vast majority of cases, the Bell Companies took the position that their existing basic payphone line and usage rates complied with the NST, even though that rarely proved to be true in any contested case.

²⁰ To support their interpretation, the Bell Companies rely principally on the April 10 Kellogg Letter. The most persuasive evidence of what the *Waiver Order* means, however, is not

an inch from the *First Payphone Reconsideration Order*'s explicit requirement that state-tariffed payphone line rates be reviewed by state commissions for NST compliance. In fact, the *Waiver Order* emphatically *reaffirmed* the need for state commission review.²¹ Thus, it is simply not credible that the *Waiver Order* allowed the Bell Companies to make their own determinations of NST compliance and to unilaterally withhold selected payphone line tariffs from state commission review.²²

The Bell Companies' current position even conflicts with the Bell Companies' own actions immediately following the *Waiver Order*. At the time it was issued, all the Bell Companies involved in this proceeding, with one exception, plainly construed the *Waiver Order* as requiring them to refile their payphone line tariffs to demonstrate compliance with the NST,

(Footnote continued)

the RBOC Coalition letters but the *Waiver Order* itself – and the subsequent actions of Bell Companies indicating their contemporaneous understanding of that order. As shown in the text that follows, the Bell Companies' current interpretation is wholly inconsistent with the *Waiver Order* and the Bell Companies' own response to that order.

²¹ See quotations in the text above at and after note 20.

²² In this proceeding, the Bell Companies have never squarely addressed the legal consequences of their current interpretation of the *Waiver Order*, given that they were obviously wrong in concluding that their existing payphone line tariffs complied with the NST. Although they have argued that NST compliance was not actually a condition of eligibility for payphone compensation after all (*see* Comments of BellSouth Telecommunications, Inc., SBC Communications Inc., and the Verizon Telephone Companies on Illinois Public Telecommunications Association's Petition for Declaratory Ruling at 19-20 (filed August 26, 2004)), that argument flies in the face of the *Payphone Orders*, the *Clarification Order*, and the *Waiver Order*, all of which stated emphatically that NST compliance *was* a condition of eligibility. The only way to square the Bell Companies' current interpretation of the *Waiver Order* with their pervasive failure to comply with the NST would be to conclude that, after stressing over and over the need to bring payphone line rates into compliance in a timely manner so that Bell Companies could be eligible for payphone compensation, the *Waiver Order* intended that Bell Companies who believed their rates already complied should withhold those rates from state commission review and run the risk of being liable for huge compensation refunds if it was ever discovered that the rates did not satisfy the NST. Leaving aside that the Bell Companies' current interpretation conflicts with the statute, the *Payphone Orders*, the *Waiver Order*, and the Bell Companies' contemporaneous interpretation of that order, it is absurd to imagine that the Bureau could possibly have intended that result.

regardless of whether they themselves believed any rate revisions were necessary. All except Qwest refiled existing payphone line rates with cost support that purported to show NST compliance, even where they did not propose to modify the rates.

For example, as noted by the Illinois Commerce Commission, on May 15, 1997, AT&T (then Ameritech) “supplied additional documentation” purporting to show that its existing payphone line rates complied with the NST.²³ Similarly, on May 16, 1997, Verizon (then NYNEX) submitted to the Massachusetts Department of Public Utilities “the requisite cost support information as required in the [*Waiver Order*] at para. 18,” with which NYNEX attempted to show that “Public Access Line Service (PALs) and Public Access Smart Line Service (PASLs) tariff rates for Massachusetts conform to the FCC requirements.” See Attachment 1. Similarly, on May 19, 1997, NYNEX filed with the New York State Public Service Commission “cost and revenue related information which demonstrates that the Company’s existing Public Access Line Service (PALs) and Public Access Smart Line Service (PASLs) tariff rates for New York satisfy the FCC’s new service test.” See Attachment 2 at 2. BellSouth made similar post-*Waiver Order* filings with state public service commissions purporting to show its existing rates’ compliance with the NST. In each of its states, between May 16 and May 21, 1997, BellSouth made filings either (1) proposing revisions to certain rates that purportedly would bring all its payphone line rates into compliance with the NST or (2) providing cost information purporting to show that its rates complied with the NST. See Attachment 3 (table showing NST compliance filings in BellSouth states).

As these filings show, the Bell Companies themselves initially believed that, in order to comply with the *Waiver Order* and protect their eligibility for compensation, they needed to “file

²³ See *Illinois Commerce Commission, Investigation into Certain Payphone Issues as Directed in Docket 97-0225*, ICC Docket No. 98-1095, Interim Order, pp. 6, 39 (Nov. 12, 2003).

intrastate tariffs” for existing payphone line rates even if they believed those rates already could satisfy the NST.²⁴ Their post-*Waiver Order* filings were obviously calculated to ensure that they would not lose their eligibility for payphone compensation, or be required to disgorge compensation previously collected, in the event that the rates they did not propose to revise were found to be non-compliant with the NST.

In summary, the tariffs to be “filed pursuant to this order” (*Waiver Order* at 21379 ¶ 19) in conformity with the NST included any payphone line tariff that had not been reviewed for NST compliance even if the Bell Company believed the rates already complied. Therefore, the refund condition of the *Waiver Order* likewise applied to all unreviewed rates, including rates that a Bell Company believed already complied.²⁵

²⁴ As noted earlier, only Qwest failed to file existing payphone line rates. While Qwest’s failure to comply with the *Waiver Order* conditions arguably raises a question as to whether it is subject to the *Waiver Order* at all, it is only an academic question. Even if Qwest is not directly subject to the *Waiver Order*, its non-compliance with the *Payphone Orders* gave rise to a separate cause of action under Section 276 of the Communications Act. See 47 U.S.C. § 276(a)(2) (prohibiting Bell Companies from discriminating in favor of their own payphone operations); *Wisconsin Order* (explaining that rates satisfying the NST were required for compliance with Section 276(a)(2)). This cause of action under Section 276, which is being pursued in the *Davel* case, will be the subject of a separate *ex parte* filing.

²⁵ It might be argued that, even if the *Waiver Order*’s filing requirement applies to existing rates that the Bell Companies believed were already NST-compliant, the *refund* requirement did not apply to such rates because paragraph 20 of the order refers to “new intrastate tariffs” and “newly tariffed rates.” There are two answers to this argument. First, the terms “new intrastate tariffs” and “newly tariffed rates” simply refer to rates that are new “once [they] are effective” because they have been revised to comply with the NST, whether on the Bell Companies’ initiative or by order of the state commission. Rates that are not “new” because no adjustments were necessary to make them comply are not included in the reference because they would not be subject to a refund requirement. Second, as noted above, the alternative interpretation, that rates are subject to refund “when effective” only if revisions were proposed in the initial filing, leads to absurd results. If the Bell Companies could have avoided a refund requirement by filing their existing rates without proposing changes, that would have ensured that the Bell Companies did not propose *any* rate revisions at all.

B. The Waiver Order Required the Bell Companies to Refund Charges Collected in Excess of NST-Compliant Rates

Both the language and the context of the *Waiver Order* make it clear that the order required the Bell Companies to refund *the difference between existing rates and NST-compliant rates*. As paragraph 19 of the *Waiver Order* explicitly stated, the purpose of the order was to bring the Bell Companies' payphone line rates into compliance with the NST as quickly as possible. The order states:

Consistent with our conclusions above and *in the interests of bringing LECs into compliance with the requirements of the Payphone Reclassification Proceeding*, we waive for 45 days from the April 4, 1997 release date of the [*Clarification Order*] *the requirement that LEC intrastate tariffs for payphone services comply with the "new services" test of the federal guidelines Pursuant to the instant Order, LECs must file intrastate tariffs . . . consistent with all the requirements set forth in the [First Payphone Reconsideration Order]*, within 45 days of the April 4, 1997 release date of the [*Clarification Order*]. . . This waiver permits the LEC *to file intrastate tariffs that are consistent with the "new services" test of the federal guidelines set forth in the [First Payphone Reconsideration Order]*, as clarified by the [*Clarification Order*]. The existing intrastate payphone service tariffs will continue in effect until *the intrastate tariffs filed pursuant to this Order* become effective.

Waiver Order, 12 FCC Rcd at 21379 ¶ 19 (emphasis added). As this paragraph makes clear over and over again, the waiver was granted to ensure that the Bell Companies would have *NST-compliant rates* as of the *Payphone Orders'* April 15, 1997 deadline.

Paragraph 20 of the order applies a refund requirement to the same rates described in Paragraph 19:

The RBOC Coalition and Ameritech have committed, once *the new intrastate tariffs are effective*, to reimburse or provide credit to its customers for these payphone services from April 15, 1997, if newly tariffed rates, when effective, are lower than the existing rates. This action will help to mitigate any delay in having *in effect intrastate tariffs that comply with the guidelines required by the [First Payphone Reconsideration Order]*. . . . A LEC who seeks to rely on the waiver granted in the instant Order must also reimburse their customers or provide credit, from April 15, 1997, in situations where *the newly tariffed rates* are lower than the existing rates.

Id. at 21379-80 ¶ 20 (emphasis added). Indisputably, the “new intrastate tariffs” and “newly tariffed rates” referred to in paragraph 20 are the same tariffs and rates referred to in paragraph 19, *i.e.*, rates that comply with the NST -- *not* “rates that may or may not be NST-compliant,” or even “rates that reflect a good-faith effort to be NST-compliant.” They are “***rates that comply with the new services test.***” *Id.* at 21379 ¶ 19 (emphasis added). The Commission would not have stressed, over and over again, that the rates must be NST-compliant, if it intended that refunds could be based on non-compliant rates. Therefore, the rate benchmark for determining refunds is the NST-compliant rate.

Moreover, the *Waiver Order* consistently uses the term “effective” or “in effect” to refer to NST-compliant rates – not rates that may or may not be NST-compliant. In paragraph 18, the Commission refers to “the requirement that . . . *effective* intrastate payphone service tariffs comply with the new services test” *Id.* at 21378 ¶ 18 (emphasis added). Similarly, in the same paragraph that imposes the refund requirement, the Bureau notes that it “will help to mitigate any delay in having *in effect* intrastate tariffs that comply with the guidelines required by the [*First Payphone Reconsideration Order*].” *Id.* at 21379 ¶ 20. The only reasonable reading is that the “tariffs” that will be “effective” and “in effect” are the same throughout the order, *i.e.*, payphone line tariffs with rates that are actually NST-compliant. Therefore, in requiring that “once the new intrastate tariffs are *effective*,” refunds are due in situations where the “newly tariffed rates, when *effective*, are lower than the existing rates,” it is referring to “effective” NST-compliant rates. *Id.* ¶ 20 (emphasis added). In the very same paragraph, the order notes that

This interpretation also accords *both* with the explicit purpose of the waiver, to “bring[] LECs into compliance with the requirements of the Payphone Reclassification Proceeding,” and with the explicit purpose of the refund requirement, to “help to mitigate any delay in having in

effect intrastate tariffs that comply with the guidelines required by the [*First Payphone Reconsideration Order*].” *Id.* at 21379 ¶¶ 19, 20. Just as the Bell Companies could be brought into compliance with the *Payphone Orders* (and with Section 276(a)(1) of the Act) only by having NST-compliant rates as of April 15, 1997, the delay in NST compliance could be mitigated only by requiring the Bell Companies to refund the difference between existing rates and NST-compliant rates retroactively to April, 15, 1997.

The Bell Companies’ contention that the *Waiver Order* required refunds only of the difference between existing rates and the rates that they actually filed by May 19, 1997, cannot be squared with the *Waiver Order*’s requirement, explained in subsection A. above, that Bell Companies file all their payphone line rates that had not yet been reviewed by state commissions under the NST standard, even if they believed the existing rates already satisfied the test. If the Bell Companies were only required to refund the difference between existing rates and the rates they filed on or before May 19, 1997, then in the case where the Bell Company filed its existing rates, the two rates would be the same, and the Bell Company could avoid a refund by always filing only the existing rate. It is absurd to imagine that the Commission intended to impose a refund requirement that could be so easily avoided.

Moreover, the Bell Companies’ interpretation is utterly inconsistent with the clear purpose of the order to “bring the Bell Companies into compliance” and to “mitigate any delay” in having NST-compliant rates. If interpreted as the Bell Companies contend, the *Waiver Order* would have encouraged the Bell Companies to *resist* compliance—perhaps even longer than they actually did. By dragging out the proceedings at the state commission as long as possible, the Bell Companies could postpone indefinitely the date when they would have to stop charging excessive rates, and could prolong the proceedings *without* being subject to any refund requirement to recover the excess over NST-compliant rates. Under this interpretation,

therefore, the *Waiver Order* could not possibly have succeeded in “mitigat[ing] any delay in having” NST-compliant rates.

Accordingly, the *Waiver Order* required that refunds be paid on the difference between existing rates and NST-compliant rates, not the difference between existing rates and the non-NST-compliant rates tariffed as of May 19, 1997. Given that the *Waiver Order* required payment of refunds based on the difference between the Bell Companies’ existing payphone line rates and NST-compliant rates, it follows that the refund period extended until NST-compliant rates actually took effect.

* * *

In summary, the language, context, and purposes of the *Waiver Order*, as well as the Bell Companies’ own post-*Waiver Order* actions, make clear that any Bell Company whose rates had not yet been reviewed for NST compliance was required to submit their rates for state commission review and subject to a refund. In addition, the Bell Companies were required to refund the difference between existing rates and NST-compliant rates, whether those rates were NST-compliant as filed by the Bell Companies on or before May 19, 1997, or were subsequently adjusted to be NST-compliant.

ATTACHMENT 1

**NYNEX' May 16, 1997 Filing with the
Massachusetts Department of Public Utilities**

NYNEX
185 Franklin Street, Boston, MA 02110
Tel 617 743 8800
Fax 617 743 8885

William J. McIntyre
Vice President - Massachusetts

May 16, 1997

NYNEX

Mary L. Cottrell, Secretary
Department of Public Utilities
Commonwealth of Massachusetts
Leverett Saltonstall Building
100 Cambridge Street, 12th Floor, Room 1201
Boston, Massachusetts 02202

**RE: Implementation of the Pay Telephone
Reclassification and Compensation Provisions
of the Telecommunications Act of 1996**

Dear Secretary Cottrell:

On April 4, 1997 the FCC released an Order (the Bureau Waiver Order, DA 97-678) in which it clarified that its New Services Test (47 C.F.R. Section 61.49[g][2]), applicable to federally tariffed new payphone services, also applies to state tariffs for basic payphone services and features. The FCC also clarified that this federal standard applies to existing state tariffed payphone services and features. NYNEX, as further described below, is providing the Department with the requisite cost support information as required in the April 15, 1997 FCC Order granting a limited waiver (the Bureau Limited Waiver Order, DA 97-805 at para. 18). Public Access Line Service (PALs) and Public Access Smart Line Service (PASLs) tariff rates for Massachusetts conform to the FCC requirements. Certain other optional features as more fully explained below do not conform and will be revised in a subsequent filing to be made by May 19, 1997.

The FCC's clarification that LEC intrastate payphone service tariffs be cost based, in accordance with the general requirements of the New Services Test, means that 1) rates must be based on the direct cost of the service and 2) recover a reasonable portion of overhead costs. NYNEX, as well as many other LECs, did not understand the FCC's prior Orders meant to apply the federal new services pricing standard to state rates for new or existing payphone services provided to payphone service providers. The Department, when it reviewed and approved these tariffs, may not have specifically done so with the goal of complying with the FCC New Services Test. NYNEX has examined its state tariff rates in light of the recent FCC clarification in order to assure its compliance. NYNEX hereby provides the same information used in its examination and assurance to the Department for its informational purposes.

The attached chart compares the present rates, costs and cost/rate ratios for these services. The chart demonstrates that all PAL and PASL rates cover direct costs and provide a reasonable contribution towards recovery of overhead costs. Curb-A-Charge blocking and screening features are the only payphone specific, network-based, Massachusetts tariff unbundled features provided to PSPs. While these features are also generally available to and used by business and residence customers, the FCC clarified that these specific features were examples of other features that must also conform (Bureau Waiver Order at paragraph 18 and footnote 49). Curb-A-Charge consists of three options; Direct Dial Screening, Operator Number Screening and Terminating Number Screening. Direct Dial Screening and Terminating Number Screening rates are less than their direct cost. Operator Number Screening has a rate but no identifiable direct cost. Therefore, these options do not currently comply with the federal requirement. The FCC, by Order of the Chief, Common Carrier Bureau (DA 97-805 released April 15, 1997), granted a limited waiver permitting LECs 45 days from April 4, in which to file state tariffs consistent with the federal guidelines. The Waiver also provided that existing state payphone tariffs will continue in effect until the intrastate tariffs, filed to comply with the Order, become effective. NYNEX intends to file a revision to the tariff, by May 19, 1997, establishing revised rates for these optional features, which comply with the FCC requirements.

Respectfully Submitted,

Vice President - Massachusetts

**STATE OF MASSACHUSETTS
FCC New Services Test**

Product Name	Tariffed Rate	TELRIC Cost	TELRIC Ratio
NEW SERVICES			
BCAL 1	\$26.94	\$15.90	0.59
BCAL 2	\$26.94	\$15.90	0.59
Inmate	\$22.94	\$16.09	0.70
Charge-a-Call	\$22.94	\$16.09	0.70
EXISTING SERVICES			
PAL / 1MA	\$19.00	\$14.63	0.77
PAL / 1FY	\$44.42	\$22.09	0.50
FEATURES			
DDS:			
PAL / 1MA	\$0.97	\$1.17	1.21
PAL / 1FY	\$0.97	\$1.17	1.21
BNS / TNS:			
PAL / 1MA	\$0.00	\$0.29	~
PAL / 1FY	\$0.00	\$0.29	~
ONS:			
PAL / 1MA	\$0.97	\$0.00	~
PAL / 1FY	\$0.97	\$0.00	~

NOTES:

OCS / ONS INCLUDES CURB-A-CHARGE'S DIRECT DIAL SCREENING
AND OPERATOR NUMBER SCREENING

BNS / TNS INCLUDES CURB-A-CHARGE'S TERMINATING NUMBER
SCREENING

TARIFF RATE INCLUDES \$5 FCC SUBSCRIBER LINE CHARGE

ATTACHMENT 2

New York Telephone's May 19, 1997
Filings in BellSouth States



New York Telephone

A NYNEX Company

1095 Avenue of the Americas
New York, New York 10036
Phone (212) 395-6103
Fax (212) 768-7568

Robert P. Stevin
Counsel

May 19, 1997

BY HAND

Hon. John Crary
Secretary
New York State Public Service Commission
Three Empire State Plaza
Albany, New York 12223

Re: Implementation of the Pay Telephone
Reclassification and Compensation Provisions of the
Telecommunications Act of 1996

Dear Secretary Crary:

New York Telephone Company (the "Company") submits this letter to advise the New York Public Service Commission (the "PSC") of the company's compliance with certain requirements of the Federal Communications Commission ("FCC") and of actions the Company intends to take to bring its tariffs into compliance where they do not now meet these federal requirements, as explained in greater detail below.

On April 4, 1997 the FCC released an Order (the "Waiver Order", DA 97-678) which clarified the requirements of prior FCC Orders implementing the provisions of Section 276 of the Telecommunications Act of 1996.¹ Among other things, the FCC clarified in that Order that its "new services test" (set forth in 47 C.F.R. § 61.49[g][2]) applies to both federal and state tariffs for basic payphone services and features. The FCC also clarified that this federal standard applies to existing state tariffed payphone services and features. The FCC explained it was imposing those requirements on local exchange

¹ Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996 (the "1996 Act"), CC Docket No. 96-128, Report and Order, FCC 96-388 (rel. Sept. 20, 1996); Order on Reconsideration, FCC 96-439 (re. Nov. 8, 1996) (collectively, the "Payphone Orders"), appeal docketed sub nom. Illinois Public Telecommunications Assn. v. FCC and United States, Case No. 96-1394 (D.C. Cir. filed Oct. 17, 1996).

companies in furtherance of its obligation to ensure non-discriminatory access to payphone services and features as required by the 1996 Act.

The federal new services test requires that rates 1) be based on the direct cost of the service and 2) recover a reasonable portion of overhead costs. The Company, as well as virtually all other LECs in the United States, did not understand the FCC's prior Orders to apply the federal new services pricing standard to state rates for new or existing payphone services provided to payphone service providers. Once the FCC clarified that the new services test does indeed apply to new and existing payphone services, the Company examined its state tariff rates in light of the recent FCC clarification in order to assure its compliance. The Company hereby provides to the PSC the same information it used for that purpose. The attached chart compares the present rates, costs and cost/rate ratios for these services.

Attachment A to this letter sets forth cost and revenue related information which demonstrates that the Company's existing Public Access Line Service (PALs) and Public Access Smart Line Service (PASLs) tariff rates for New York satisfy the FCC's new services test. Certain optional features used in the provision of payphone service, as more fully explained below, do not now satisfy the new services test but will do so once revisions to existing rates, to be accomplished through tariff filings to be made by May 19, 1997, become effective.

In Attachment A, the tariffed rates include the current rates for each service, plus the End User Common Line (EUCL) rate. The costs associated with each service are the economic costs (TELRIC direct costs, not including overhead) of providing the service and are based on total non-jurisdictionally separated New York Telephone company costs.

As illustrated in the chart, the rates associated with access lines used for provision of payphone service—that is, PAL and PASL rates—cover direct costs and provide a reasonable contribution towards recovery of overhead costs. Those rates, therefore, satisfy the new services test. Line Side Answer Supervision ("LSAS") and Billed Number Screening ("BNS") are the only payphone specific, network-based, New York tariff unbundled features provided to PSPs and are, therefore, the only features subject to the new services test. Presently the LSAS feature is tariffed with no charge. However, since there are costs associated with the provisioning of this the feature, the tariffed offering is not cost-based and, therefore, does not comply with that requirement of the new services test. While the BNS feature is also generally available to and used by business and residence customers (and not exclusively by payphone service providers), the FCC has made it clear that it considers BNS one of several payphone-related features which must satisfy the new services test. (Bureau Waiver Order at paragraph 18 and footnote 49). Like LSAS rates, BNS rates are lower than their respective direct costs and, therefore, do not currently comply with the new services test.

The FCC, by Order of the Chief, Common Carrier Bureau (DA 97-805 released April 15, 1997), granted a limited waiver which permits LECs to file, within 45 days from April 4, state tariffs that meet the new services test, as required. The Waiver Order also

provides that existing state payphone tariffs will continue in effect until the intrastate tariffs filed to comply with the Order, become effective. The Company is concurrently filing tariff revisions to establish revised rates for these optional features, in compliance with the FCC requirements.

The purpose of this letter is to advise the Commission that the Company's intrastate payphone tariffs are in compliance with federal requirements, except as otherwise noted.

Sincerely,

Robert J. Slavin

**STATE OF NEW YORK
FCC New Services Test**

Product Name	Tariffed Rate	TELRIC Cost	TELRIC Ratio
NEW SERVICES			
BCAL 1	\$30.85	\$22.61	0.73
BCAL 2	\$29.72	\$22.61	0.76
Inmate	\$28.93	\$21.98	0.76
Charge-a-Call	\$28.93	\$21.98	0.76
EXISTING SERVICES			
PAL:			
LIDPAL / 19G	\$26.93	\$21.59	0.80
LIDPAL / 19T	\$25.80	\$21.59	0.84
ELIDPAL / 15U	\$26.93	\$21.59	0.80
ELIDPAL / 15S	\$25.80	\$21.59	0.84
BPAL / 1UQ	\$24.85	\$20.31	0.82
BPAL / 19W	\$22.60	\$20.31	0.90
BPAL / 19Z	\$23.72	\$20.31	0.86
BPAL / 19Q	\$21.47	\$20.31	0.95
EBPAL / 15P	\$24.85	\$20.31	0.82
EBPAL / 15E	\$22.60	\$20.31	0.90
EBPAL / 15H	\$23.72	\$20.31	0.86
EBPAL / 15B	\$21.88	\$20.31	0.93
CCPAL / 12E	\$37.50	\$20.70	0.55
FEATURES			
LSAS:			
LIDPAL / 19G	\$0.00	\$0.58	-
LIDPAL / 19T	\$0.00	\$0.58	-
ELIDPAL / 15U	\$0.00	\$0.58	-
ELIDPAL / 15S	\$0.00	\$0.58	-
BPAL / 1UQ	\$0.00	\$0.58	-
BPAL / 19W	\$0.00	\$0.58	-
BPAL / 19Z	\$0.00	\$0.58	-
BPAL / 19Q	\$0.00	\$0.58	-
EBPAL / 15P	\$0.00	\$0.58	-
EBPAL / 15E	\$0.00	\$0.58	-
EBPAL / 15H	\$0.00	\$0.58	-
EBPAL / 15B	\$0.00	\$0.58	-
BNS / TNS	\$0.00	\$0.39	-

NOTE:

LSAS = LINE SIDE ANSWER SUPERVISION

TARIFF RATE INCLUDES \$6 FCC SUBSCRIBER LINE CHARGE

ATTACHMENT 3

Partial List of LECs' May 19, 1997
Filings in BellSouth States

BellSouth Region

State	Company	Document Type	File Date	Proposed Eff. Date	Appr. Date	Description
FCC	BellSouth	Federal Tariff FCC No. 1	5/19/97	6/3/97		Revised tariff pages and introduction of Answer Supervision as an unbundled network feature available for use with Pay Telephone Lines.
AL	BellSouth	Dkt. No ____ (not designated yet)	5/23/97			BellSouth request to reclassify Access Line Service for Customer Provided Telephones and SmartLine Service for Public Telephone Access.
	BellSouth	Letter w/attachments to AL PSC	5/16/97	4/15/97		Revisions to tariff attached now comply with FCC new services test.

FL	ALLTEL	Letter to FL PSC	5/15/97		Confirmation letter that ALLTEL has met all FCC requirements with explanations.
	BellSouth	Letter to FL PSC	5/19/97	4/1/97	Confirmation letter that BellSouth existing tariff meets all FCC requirements with attachments.
	Floral Telephone Co.	Letter to FL PSC	5/15/97		Confirmation letter that Floral Telephone Co. has met all FCC requirements.
	GTE Telephone Operations	Dkt. No. T-97-443	5/19/97		Notice of intent to seek confidential classification as well as revised tariff pages including some rate reductions as well as one large rate increase for answer supervision.
	Gulf Telephone Co.	Letter to FL PSC	5/15/97		Confirmation letter that Gulf Telephone Co. has met all FCC requirements.
	St. Joseph Telephone & Telegraph Co.	Letter to FL PSC	5/15/97		Confirmation letter that St. Joseph Telephone & Telegraph Co. has met all FCC requirements.
	TDS Telecom	Letter to FL PSC	5/15/97		Confirmation letter that TDS Telecom has met all FCC requirements and expresses belief that the new services test does not apply to TDS, since they still operate under rate-of-return regulation.
GA	BellSouth	Letter w/attachments to GA PSC	5/16/97	4/15/97	With submission of attached revision tariff pages, BellSouth tariff now complies with FCC new services test.
KY	BellSouth	Letter w/attachments to KY PUC	5/19/97	4/1/97	Confirmation letter that BellSouth's existing tariff meets all FCC requirements.
	BellSouth	Confidentiality Petition			Petition to protect confidentiality of material submitted by BellSouth to support cost studies.
	BellSouth	Admin. Case No. 361	5/7/97		Response of BellSouth to complaint from CPMC re tariff compliance.
	Cincinnati Bell	Admin. Case No. 361	5/7/97		Response of Cincinnati Bell to complaint from CPMC re tariff compliance.
	Coin Phone Man. Co.	Letter to KY PUC	5/21/97		Request to receive ASAP BellSouth's cost study data for Access Line Service and Smart Line Service.
	GTE South Inc.	Admin. Case No. 361	5/7/97		Response of GTE South Inc. to complaint from CPMC re tariff compliance.
LA	BellSouth	Letter w/attachments to LA PSC	5/16/97	4/1/97	Confirmation letter that BellSouth's existing tariff meets all FCC requirements.
MS	BellSouth	Letter w/attachments to MS PSC	5/19/97	4/15/97	Revised tariff sheets that now comply with FCC new services test.

NC	Sprint	Letter w/attachments to FCC re Dkt.No.P-100, Sub 84B	5/20/97			Revised tariff sheets that now comply with FCC new services test. (NC LECs were directed by NC Utilities Commission to file the applicable "new services" test with the FCC)
SC	BellSouth	Letter/attachment to SC PSC	5/19/97	4/1/97		Confirmation letter w/attachments that BellSouth's existing tariff meets all FCC new services test.
	SC PUC	Order No.97-420 - re Dkt.97-195-C	5/20/97			SC PUC denial of SC Public Communications Association's motion to conduct investigation and for an accounting order, in conjunction with a petition to intervene in LEC tariffs complying with FCC order.
TN	TN Regulatory Authority	Dkt.No.97-00346	5/21/97			Order to protect confidentiality of material submitted by LECs to comply with FCC Order 96-349 re reclassification of pay telephones.
	BellSouth	Dkt.No.97-00409	5/21/97	10/31/96		Petition by BellSouth for certification that its existing intrastate tariffs for payphone services are consistent with FCC's new services test
	TN Regulatory Authority	Hearing Schedule	5/29/97			TN Regulatory Authority adopted procedural authority for hearing on BellSouth's compliance with the FCC's order. United and Citizen are also participating in case and will file cost studies. All other LECs have been carried out and put in a separate docket to be considered later.